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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

PIERRE DINH,

Defendant.

No. 06-00195 RMW

STIPULATION AND ☐
ORDER CONTINUING HEARING DATE
AND EXCLUDING TIME

SAN JOSE VENUE

The undersigned parties respectfully request that the status hearing scheduled for October 29, 2007 be continued to January 7, 2008 at 9:00 a.m. The reason for the continuance is the government recently learned that the Drug Enforcement Administration in Philadelphia, which has a companion case, destroyed the physical evidence associated with the defendant's case. The government has informed defense counsel about this circumstance, and the parties need additional time to determine their respective positions regarding a disposition of the case. In addition, the reason for the January date is to accommodate the parties' schedules, specifically, government counsel is unavailable during the first part of December due a trial in another case and a family vacation. The parties also request an exclusion of time under the Speedy Trial Act

from October 29, 2007 to January 8, 2008. The parties agree and stipulate that an exclusion of time is appropriate based on the defendant's need for effective preparation of counsel.

SO STIPULATED:

SCOTT N. SCHOOLS
United States Attorney

DATED: 10/25/07

/s/
SUSAN KNIGHT
Assistant United States Attorney

DATED: 10/25/07

/s/
DOUGLAS L. RAPPAPORT
Counsel for Mr. Dinh

Accordingly, for good cause shown, the Court HEREBY ORDERS that the status hearing scheduled for October 29, 2007 is continued to January 7, 2008 at 9:00 a.m.

The Court FURTHER ORDERS that time be excluded under the Speedy Trial Act from October 29, 2007 to January 8, 2008. The Court finds, based on the aforementioned reasons, that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial. The failure to grant the requested continuance would deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

SO ORDERED.

DATED: 10/30/07

Ronald M. Whyte
RONALD M. WHYTE
United States District Judge